

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA**

Alexandria Division

UNITED STATES OF AMERICA)	Criminal No. 1:04Cr194(GBL)
)	Filed April 29, 2004
)	
v.)	Count 1: 15 U.S.C. § 1
)	(Conspiracy To Restrain
)	Trade)
CARTWRIGHT INTERNATIONAL)	
VAN LINES, INC.)	
)	
Defendant.)	

CRIMINAL INFORMATION

Cartwright International Van Lines, Inc. ("CARTWRIGHT ") is made a defendant on the charge herein.

**Count One - Conspiracy To Restrain Trade
(15 U.S.C. § 1)**

THE UNITED STATES CHARGES THAT:

1. Beginning in or about October 2001 and continuing until in or about October 2002 ("the relevant period"), the exact dates being unknown to the United States, defendant CARTWRIGHT and co-conspirators entered into and engaged in a combination and conspiracy to eliminate competition by fixing and raising through rates filed with the Department of Defense ("DOD") for the transportation of household goods owned by U.S. military and civilian DOD personnel ("military household goods") from Germany to the United States. The charged combination and conspiracy engaged in by the defendant and co-conspirators in unreasonable restraint of interstate and foreign trade and commerce violated Section 1 of the Sherman Antitrust Act, 15 U.S.C. § 1.

2. The charged combination and conspiracy consisted of a continuing agreement, understanding and concert of action among the defendant and co-conspirators, the substantial term of which was to increase the rates paid by DOD for the transportation of military household goods from Germany to the U.S.

Defendant and Co-Conspirators

3. Defendant CARTWRIGHT is a U.S. company headquartered in Grandview, Missouri. During the relevant period, defendant CARTWRIGHT was, inter alia, in the business of providing freight forwarder services, as described in Paragraph 7, related to the transportation of military household goods.

4. Various companies, partnerships and individuals, not made defendants in this Count, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance of the conspiracy.

5. Whenever this Count refers to any act, deed or transaction of any company, it means that the company engaged in the act, deed or transaction by or through its officers, directors, employees, agents or other representatives while they were actively engaged in the management, direction, or control of its affairs.

Background

6. DOD administers and coordinates its International Through Government Bill of Lading ("ITGBL") program for the transportation of military household goods between the United States and other countries through the Military Traffic Management Command ("MTMC"). MTMC, recently renamed Surface Distribution Deployment Command, is headquartered in Alexandria, Virginia, in the Eastern District of Virginia.

7. "Freight Forwarders," also known as "forwarders" or "ITGBL carriers,"

are U.S. companies that submit bids, contract with MTMC and shoulder the ultimate responsibility for ITGBL shipments.

8. Each ITGBL move is comprised of five steps. A move from Germany to the U.S., for example, requires the following: (1) local German agent services, (2) European port agent services, (3) ocean transport services, (4) U.S. port agent services, and (5) U.S. destination agent services. A freight forwarder either performs these steps itself or subcontracts for them with other service providers involved in the transportation of military household goods.

9. Under the ITGBL program, freight forwarders file “through rates” with MTMC twice a year in a two-step bidding process. “Through rates,” expressed in dollars per hundredweight, are the rates bid to DOD by U.S. freight forwarders and paid by DOD for all the moving and transportation services provided in the door-to-door move between a foreign country and the United States. The through rates are specific to “channels” or routes to or from a particular state, or portion of a state, and a foreign country (e.g., Germany-Virginia). Of the channels between Germany and the United States, a majority of military household goods tonnage moves to and from approximately 20 high-volume states. Virginia, with large U.S. Army bases such as Ft. Myer and Ft. Belvoir, is a high-volume state.

10. Each rate submission covers a six-month cycle. The summer cycle runs from April 1 through September 30; the winter cycle runs from October 1 through March 31. The ITGBL cycles are referred to by the abbreviation “IS,” for International Summer, or “IW,” for International Winter, combined with the relevant year. Thus, the “IS-02

cycle” is shorthand for the international summer cycle running from April 1, 2002 through September 30, 2002.

11. In the first step of the rate filing process, the “initial filing,” freight forwarders file rates in each channel, eastbound and westbound. After the initial filing, MTMC publishes the lowest five (“low-5”) rates offered in each channel and the identities of the freight forwarders filing those low-5 rates. The lowest rate bid for a channel is termed the “prime through rate.” MTMC guarantees to the U.S. freight forwarder that sets the prime through rate a certain percentage of the shipments in a channel as an incentive to set the prime through rate. The second lowest rate is termed the “second-low level.” In the second or “me-too” phase of the rate filing process, every forwarder that filed a rate in the initial filing, has the opportunity to match, or “me-too,” the prime through rate or to file any rate higher than the prime through rate in each channel.

12. On or about November 8, 2001, defendant CARTWRIGHT filed initial through rates to transport ITGBL shipments of military household goods from Germany to the United States for the IS-02 cycle. In December 2001, MTMC announced the results of this initial filing. Defendant CARTWRIGHT had set the prime rates in 26 of the 52 traffic channels from Germany to the U.S. In 12 channels, defendant CARTWRIGHT’s rates were more than \$3 per hundredweight lower than the rates at the second-low level.

13. For the IS-02 cycle, U.S. freight forwarders were required to file their “me-too” rates with MTMC by January 16, 2002.

Manner and Means of the Conspiracy

14. For purposes of forming and carrying out the charged combination and conspiracy, defendant CARTWRIGHT and co-conspirators did the following things, among others:

a. targeted for elimination the prime through rates filed by defendant CARTWRIGHT in 12 specific channels, including: US24 (Washington, D.C.), US25 (Virginia), US30 (Michigan), US40 (North Carolina), US44 (South Carolina), US49 (Florida-North), US58 (Kansas), US62 (Oklahoma), US66 (Texas-North), US68 (Texas-South), US76 (Utah) and US79 (Arizona), with the intent to increase to the second-low level the through rate paid by DOD in those channels;

b. agreed to cancel its prime through rates in the 12 specific channels, so long as no other freight forwarder “me-tooed” those prime through rates or filed any rate lower than the second-low level in those channels;

c. directed co-conspirator U.S. freight forwarders not to “me-too” the prime through rates in the 12 specific channels;

d. directed co-conspirator U.S. freight forwarders to file “me-too” through rates at the second-low level or higher in the 12 specific channels;

e. agreed that co-conspirator U.S. freight forwarders would not “me-too” the prime through rates in the 12 identified channels;

f. agreed that co-conspirator U.S. freight forwarders would file “me-too” through rates at the second-low level or higher in the 12 specific channels;

g. directed co-conspirator U.S. freight forwarders that filed a “me-too” through rate lower than the second-low level in any of the 12 specific channels to cancel their “me-too” through rates;

h. agreed that co-conspirator U.S. freight forwarders that filed a “me-too” through rate lower than the second-low level in any of the 12 specific channels would cancel their “me-too” through rates; and

i. carried out the activities, agreements, and directives described in subparagraphs a – h above.

15. These activities undertaken by defendant CARTWRIGHT and co-conspirators increased the through rates paid by DOD to transport military household goods from Germany to the U.S. during the IS-02 cycle.

Interstate and Foreign Trade and Commerce

16. During the relevant period, rates, proposals, contracts, invoices for payment, payments and other documents essential to the provision of ITGBL services were transmitted in interstate and foreign trade and commerce between and among offices of defendant CARTWRIGHT and co-conspirators located in various States and foreign countries.

17. During the relevant period, defendant CARTWRIGHT and co-conspirators transported, or arranged for the transportation of, substantial quantities of military household goods, in a continuous and uninterrupted flow of interstate and foreign commerce, from Germany to the United States, through various U.S. ports and States to final destinations in various States.

18. During the relevant period, DOD paid for ITGBL services by check, wire transfer and other monetary instruments transmitted to the bank accounts of defendant CARTWRIGHT and other co-conspirator U.S. freight forwarders in a continuous and uninterrupted flow of interstate commerce.

19. The activities of defendant CARTWRIGHT and co-conspirators in connection with the transportation of military household goods were within the flow of, and substantially affected, interstate and foreign trade and commerce.

Jurisdiction and Venue

20. The combination and conspiracy charged in this Count was formed and carried out, in part, within the Eastern District of Virginia within the five years preceding the filing of this Information.

(In violation of Title 15, United States Code, Section 1).

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